

REMARKS

Reconsideration of the rejections set forth in the Office Action dated July 30, 2004 is respectfully requested.

I. Amendments

Claim 19 is amended to recite that the drain channel intersects the electrolyte channel at a drain port axially spaced from the supply port. Basis for this amendment can be found in Fig. 3. Claim 19 is further amended to recite that the reservoir and the drain are located at opposite ends of the electrolyte channel as shown in Fig. 3. Claim 19 is also amended to improve readability.

Claim 20 is amended for proper antecedent basis.

No new matter is added by way of these amendments.

II. Rejection under 35 U.S.C. § 112, second paragraph

Claims 19-21 were rejected under 35 U.S.C. §112, second paragraph as allegedly indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention. The Examiner had four specific objections which are set forth and discussed below.

1. The Examiner objected to the language "applying an electric field across the sample channel and a drain channel" in claim 19 for allegedly failing to recite any structural relationship between the drain channel and the other elements recited in the claim. Applicants' amended claim 19 recites the structural relationship between the drain channel and the other elements in the claim.

2. The Examiner further objected to claim 19 for the language "a reservoir for an electrolyte buffer and a drain at an opposite end of the electrolyte channel." Applicants have amended the claim in accord with the Examiner's kind suggestion.

3. The Examiner objected to claim 20 for the language "the potential at the reservoir" as allegedly lacking antecedent basis. Applicants' amended claims obviate this rejection.

4. The Examiner further objected to claim 20 for the language "the electrolyte buffer is allowed to advance into said sample channel and into said drain channel" as allegedly indefinite. Applicants respectfully direct the Examiner to page 8, lines 23-32, where one embodiment is described where the electrolyte buffer advances into the supply and drain channel. Thus, the electrolyte buffer recited in claim 20 is, indeed, the electrolyte buffer in the reservoir. Accordingly, Applicants submit that claim 20 is definite when read in view of the guidance provided in the specification.

In view of the above comments and amendments, Applicants respectfully request withdrawal of the rejections under 35 U.S.C. §112, second paragraph.

III. Obviousness-Type Double Patenting Rejections

Claims 19-21 were rejected under the judicially created doctrine of obviousness-type double patenting as being directed to an invention not patentably distinct from claims 1, 5, and 6 of co-owned patent no. 6,280,589.

A Terminal Disclaimer prepared in accordance with 37 C.F.R. §1.321(b) and (c) is enclosed. The signed Terminal Disclaimer obviates this obviousness-type double patenting rejection.

IV. Conclusion

In view of the above, Applicants submit that the pending claims are in condition for allowance. A Notice of Allowance is, therefore, respectfully requested.

If in the opinion of the Examiner a telephone conference would expedite the prosecution of the subject application, the Examiner is encouraged to call the undersigned at (650) 838-4410.

Respectfully submitted,


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Date: Nov. 1, 2004

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